

77-0101

OGC 78-8566

OGC Has Reviewed

29 December 1978

MEMORANDUM FOR: Director of Central Intelligence

FROM: Anthony A. Lapham
General CounselSUBJECT: ~~CIA Implementation of Ethics in Government Act of 1978~~

1. Action Requested: Your consideration and approval of the recommendations set forth in paragraph 5. I would like to discuss these recommendations with you before you act on them.

2. Background: As you know, the Ethics in Government Act of 1978 establishes a new statutory requirement for the disclosure, in extensive detail, of financial interests by all employees GS-16 and above. The Act also provides, except as under Section 205 the President may direct otherwise in the case of CIA employees and other government personnel involved in intelligence activities, that employee financial reports are to be available to the public. In order for the Agency and its employees to comply with the Act, it will be necessary to take a number of administrative steps. Two of the more urgent actions, I believe, are to appoint an official to administer the Act within the Agency and to recommend to the President that he exempt from public disclosure the financial reports filed by certain CIA officials.

3. The Act contemplates the designation within each agency of an official whose overall function will be to administer the provisions of the Act. One of the more important duties assigned to that official is to "make provisions to ensure that each report filed with him under this title shall be reviewed within 60 days." Also, the designated official is to determine that the individual submitting a report is or is not "in compliance with applicable laws and regulations." This would include a determination that the individual is in compliance not only with the Ethics Act, but also with conflict of interests statutes generally.

All portions of this

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Given the detailed nature of the required reports, the large number of employees upon whom the reporting obligations will be imposed, and the other complexities involved, I believe the individual to be named as the "designated agency official" will need to devote considerable time to a study of the law and its requirements and to the necessary actions to enable Agency employees to be fully informed and to comply. (The initial reports by employees (except reports of employees who leave the Agency) are due no later than 15 May 1979.) The Civil Service Commission, which has assumed responsibility for administering and implementing the Act pending the establishment of the Office of Government Ethics, which is to occur 1 January, is preparing report forms and expects to have these available for the agencies in the very near future. These forms, together with instructions and guidance, including new CIA regulations, will need to be disseminated as soon as possible.

4. The DDA now has under way a study which is intended to lead to recommendations to you and, if you agree, to the President regarding the manner in which the President should exercise his Section 205 power to exempt the financial reports of CIA employees from the public availability provisions of the Act. Specifically, under Section 205 the President may exempt from public disclosure the report submitted by any CIA employee if he finds that "due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States." The DDA expects to get this report to you as soon as possible.

5. Recommendation: As interpreted by the Civil Service Commission, the Act obliges employees GS-16 and above who served in such positions for upwards of 60 days in 1978 and whose employment is terminated after 31 December to file financial reports within 30 days of termination. This requirement could cause special problems with respect to at least some of our employees departing in January or early in 1979 in that it will not be feasible for the President to have acted and to have made exemption decisions within 30 days of, for example, 12 January, a date on which a number of employees are retiring. In order to protect against early public disclosure by employees thereafter exempted by the President, it is suggested that we request the Director of the Office of Government Ethics, an entity established by the Act, to grant an extension of time for filing of reports by any CIA employee. (The Act authorizes extensions for up to 90 days.) If you agree, we will prepare a request to that office. In addition, I suggest that you promptly

OK

designate a high-ranking Agency official to be responsible for administration of the Act, and that a senior-level working group be appointed to assist that official.



Anthony A. Lapham

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APPROVE _____

DISAPPROVE _____

HIGH-RANKING OFFICIAL TO ADMINISTER ACT _____
(DDA SUGGESTS SOMEONE FROM OGC OR IG)